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UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

PAUL G. SHEARER,

Plaintiff,

VS.

UNITED STATES OF AMERICA,
GALE A. NORTON, Secretary of the
Interior, DEPARTMENT OF INTERIOR,
and, NATIONAL PARK SERVICE,

Defendants.

Case No. A03-0263 CV (JKS)
(Consolidated)

ORDER GRANTING IN PART
UNITED STATES MOTION FOR
PARTIAL JUDGMENT ON THE
PLEADINGS

The United States has filed a Motion for Partial Judgment on the Pleadings, and plaintiff Paul Shearer has filed a Partial Opposition to United States Motion for Partial Judgment on the Pleadings. The United States motion concerns paragraphs in the First Amended Complaint only. Having considered the memoranda and contentions of the parties submitted therein, the Court hereby rules as follows:

1. The United States' motion is granted in part and denied in part according to the following paragraphs of this Order.

2. Paragraphs 56, 57 and 58 are dismissed.

3. Paragraphs 182 through 186, 188 through 193, and 203 through 212 are dismissed subject to Shearer's reservation of rights with regard to his retained properties not subject of his consent to taking under Section 120 and his rights of access thereto.

4. Paragraphs 197 through 199 are dismissed to the extent these sound in an earlier date of taking from February 12, 1998, established in the Section 120 legislation. Thus any properties on which Shearer has validly consented under Section 120 shall have a date of taking of February 12, 1998, and Shearer has not plead otherwise.

5. The dismissal of the above enumerated paragraphs in the First Amended Complaint is without prejudice pursuant to Rule 41(a)(2), Fed.R.Civ.Proc.

IT IS SO ORDERED.

DATED at Anchorage, Alaska, this ____ day of _____, 2006.

James K. Singleton, Jr.
Senior U.S. District Judge